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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,975	01/22/2004	Brian J. Cox	14395-0013	7891
37374 7590 02/21/2008 INSKEEP INTELLECTUAL PROPERTY GROUP, INC 2281 W. 190TH STREET SUITE 200 TORRANCE, CA 90504				
EXAMINER SEIVERTSON, RYAN J				
ART UNIT 3731		PAPER NUMBER		
MAIL DATE 02/21/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/763,975

**Applicant(s)**

COX, BRIAN J.

**Examiner**

Ryan Severson

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-43 is/are pending in the application.
- 4a) Of the above claim(s) 29-39, 42 and 43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-28, 40 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Status*

1. The status of the claims is as follows:
  - a. Cancelled: 1-22
  - b. Pending and Withdrawn: 29-39, 42, and 43
  - c. Pending and Rejected: 23-28, 40, and 41

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 23-28, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deem et al. (6,231,597) in view of Silvestrini (5,234,456).** Deem reference discloses a device that is a support structure (see figure 4) that is sized for placement at an aneurysm (see figure 11B). The support structure has a bridge portion or occlusion region (15, see figure 1) that spans the neck of the aneurysm (see figure 11B). The support structure has an open configuration (see figure 4). The bridge or occlusion portion includes a reactive material (102) that helps promote clotting (see column 5, lines 49-55), which restricts flow of blood into the aneurysm.

4. However, the embodiment of Deem described above does not disclose the support structure is non-tubular. Attention is drawn to figure 13 of Deem reference, which shows a support structure that does not form a complete loop (see column 8, lines 8-17) which would be beneficial because the support structure does not obstruct as much of the lumen, thereby reducing the resistance to blood flow through the area in which the support structure is placed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the embodiment in figures 4 and 11B of Deem reference with the support structure that does not encompass the entire circumference of the lumen, as taught in figure 13 of the same reference, so as not to obstruct as much of the lumen, thereby reducing the resistance to blood flow through the area in which the support structure is placed.

5. Further regarding claim 23, Deem reference discloses substantially identical embodiments in figures 12 and 13, wherein the only difference is the fact that the end portions extend around the entire circumference of the lumen in figure 12 and do not in figure 13. This is further evidence that the support structure can perform equally well configured in either fashion and there would be no disadvantage to modifying the embodiment of figures 4 and 11B to have the end portions extend only about a portion of the circumference of the lumen.

6. Further, the reactive material of Deem reference does not expand when in a reacted state. Attention is drawn to Silvestrini reference, which teaches a stent or similar structure (for example, see figure 3) can be partially made of a material that is inert or solid (28) and partially made of a material that is expandable (26). Therefore, it

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would have been obvious to one of ordinary skill in the art at the time the invention was made to make the covering (102) of Deem reference of the hydrophilic material (26) of Silvestrini reference to allow the reactive material to expand and help occlude the aneurysm neck.

7. Regarding claims 24 and 41, the arced configuration is curved and coiled (see figure 4).
8. Regarding claim 25, the configuration conforms to the lumen it is placed in (see figure 11B).
9. Regarding claim 26, the support structure includes a sinusoidal body portion (elements 14 form a sinusoidal pattern, see figure 4).
10. Regarding claim 27, the sinusoidal pattern is only disposed in the bridge portion, which lies between the opposing ends of the support structure.
11. Regarding claim 28, the bridge portion includes the reactive material (102, see figure 4).

#### ***Response to Arguments***

12. Applicant's arguments with respect to claims 23 and 40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./

Examiner, Art Unit 3731

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731